

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5210 of 1985

Date of decision: 30-7-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

B A SHAH DY EXECUTIVE ENGINEER

Versus

STATE OF GUJARAT

Appearance:

MR S.R.Brahmbhatt for Petitioners
SERVED for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/09/97

ORAL JUDGEMENT

Heard the learned counsel for the petitioner and perused the special civil application. The petitioner, a Deputy Engineer of Public Health and Family Welfare Department has filed this special civil application challenging the order of the respondents dated 16th September, 1985 under which respondent No.3 was given promotion on the post of Executive Engineer (Civil). Copy of the said order has been placed on the record of the special civil application at annexure-A. Respondent No.3 was on deputation at the relevant time. From the order of promotion it comes out that respondent No.3 was on deputation to Gujarat Water Supply and Sewerage Board and he was given officiating promotion for a period of one year or till regular appointment is made whichever is earlier. So this was only a fixed time promotion.

2. The period of one year would have come to an end on 15th September, 1986. But nothing has been brought on record by the petitioner whether that officer has been promoted on regular basis or his term of officiating appointment has been extended. In service matters it is the duty of the petitioners to bring on record of the special civil application all subsequent developments which have taken place. Otherwise also, temporary, officiating promotion does not give any right to the promotee to continue on the post unless he is regularly promoted. So in absence of anything on record to show that respondent No.3 was regularly promoted on the post or the term of his officiating promotion has been extended, this writ petition does not survive. Otherwise also it is not in dispute that respondent No.3 belongs to reserved category and promotion has been given by taking into consideration the reservation quota. Grievance of the petitioner is that agreement was there and until final order is passed in the matter reservation could not have been given effect to. However, the learned counsel for the petitioner fairly conceded that in the matter of promotion there is reservation also. So in case reserved category candidate is given promotion against reserved post, leaving apart the question of agreement, etc., I fail to see how any grievance could have been made by the petitioner, more so when it was only an officiating promotion.

3. In the result the special civil application fails and the same is dismissed. Rule discharged. Interim relief granted earlier stands vacated.

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